Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Advanced Television Systems	)	**MM Docket No. 87-268**
and Their Impact Upon the	)	
Existing Television Broadcast	)	
Service	)	

To the Commission:

PETITION FOR PARTIAL RECONSIDERATION OF THE FIFTH REPORT AND ORDER AND OF THE SIXTH REPORT AND ORDER

Viacom Inc. ("Viacom") respectfully submits this petition for reconsideration of certain of the matters determined by the Commission in the *Fifth Report and Order,* FCC 97-116 (released April 21, 1997) ("*Fifth Report and Order*") and in the *Sixth Report and Order*, FCC 97-115 (released April 21, 1997) ("*Sixth Report and Order*") in the above-captioned proceeding.

I. BACKGROUND

Viacom is the direct and indirect licensee of eleven television stations, ten of which are UHF stations and ten of which are UPN affiliates.[1] Moreover, Viacom is 50% owner of UPN, a

[1] Viacom's 11 television stations are: WPSG, Channel 57 (UPN), Philadelphia; WSBK, Channel 38 (UPN), Boston; WDCA, Channel 20 (UPN), Washington, D.C.; KTXA, Channel 21 (UPN), Dallas; WKBD, Channel 50 (UPN), Detroit; WUPA, Channel 69 (UPN), Atlanta; KTXH, Channel 20 (UPN), Houston; WBFS, Channel 33 (UPN), Miami; KSTW, Channel 11 (UPN), Seattle/Tacoma, WA; WTOG, Channel 44 (UPN), Tampa/St. Petersburg, FL; and WVIT, Channel 30 (NBC), Hartford.

nascent broadcast television network whose affiliates nationwide are overwhelmingly UHF stations.[2] Consequently, Viacom is vitally interested in the rules and policies adopted by the Commission that will shape the digital broadcast television world and the transition period leading to that digital world —particularly with respect to the UHF television industry. Indeed, Viacom has been an active participant in this proceeding, having filed reply comments in response to the *Fourth Further Notice of Proposed Rule Making/Third Notice of Inquiry* MM Docket No. 87-268, 10 FCC Record 10541 (1995) and to the *Sixth Further Notice of Proposed Rule Making* in MM Docket No. 87-268 ("*Sixth Further Notice*"), 11 FCC Rcd 10968 (1996).

It was in connection with the release of the last of these documents —the *Sixth Further Notice,* containing the Commission's proposed Table of Allotments— that Viacom and other UHF broadcasters first became alarmed about the power levels proposed for UHF stations assigned DTV channels in the UHF band ("U-to-U" stations), as well as the disparity in the proposed power levels between those stations and VHF stations assigned DTV channels in the UHF band ("V-to-U" stations). Viacom and other UHF licensees determined that in some television markets, the Commission's proposed Table assigned to V-to-U stations power levels up to 100 times greater than those assigned to U-o-U stations. With greater power, the signals of V-to-U stations can be received by viewers using an indoor antenna located on the back of the television receiver. On the other hand, reception of the U-to-U signals, with their insufficient, lower assigned power levels, is at risk, especially in households using indoor loop antennas. To be received by an indoor antenna, a signal, whether analog or digital, must be sufficiently powerful to overcome signal loss and degradation due to building material attenuation and low antenna gain and directivity.

Further, in examining the power levels in the proposed Table as set forth in the *Sixth Further Notice*, Viacom feared that its U-to-U facilities would be disadvantaged particularly with respect to the delivery of new ancillary services, such as data and information delivery to devices

[2] Eighty of 91 UPN affiliates are UHF stations.

with low gain antennas —services which the Chairman has stated he envisions as providing revenues to defray expenses in converting to digital. *See Multichannel News*, March 3, 1997 at 50. A data service provider seeking a distributor of its product naturally will first look to a high-power television station rather than a lower power, full-service station because power equates to reliability of delivery and greater market coverage.

On March 26, 1997, subsequent to the deadline for filing reply comments to the *Sixth Further Notice*, Viacom, along with the Association of America's Public Television Stations, Public Broadcasting Service, Sinclair Broadcast Group and others, submitted an *ex parte* letter to Chairman Hundt (the "Viacom/PBS Letter"), requesting that the Commission adopt a Table of Allotments that include four criteria to alleviate the VHF-UHF disparity. Those criteria were:

> (1) that the power level of V-to-U stations be capped at 1000 kW and that V-to-U stations be permitted to increase their assigned power level once "U-to-U stations have been permitted to maximize power levels to the extent possible";
>
> (2) that a minimum power level for U-to-U stations be set at 50 kW, that U-to-U stations be permitted to increase their power levels so as to provide a coverage up to, but not exceeding, the largest coverage area in the market, and that interference levels used in calculating increased coverage areas be relaxed;
>
> (3) that there be no bias against the use of channels 52 through 59 so that the goal of replication may be fully realized and that there be occasional use of channels 60 through 69 where flexibility is required; and
>
> (4) that a 10 dB noise figure for receivers be used in calculating assigned power levels.

Of these criteria, the Commission adopted the 1000 kW cap and the 50 kW floor. While Viacom is gratified that the Commission incorporated those two criteria, Viacom is concerned that in so doing the Commission also used unsupported assumptions which had the effect of adjusting downward the power levels of many U-to-U stations, some down to the 50 kW floor, and adjusting upward the power levels of some V-to-U stations. Consequently, in some of the 11 television markets in which Viacom stations are located, the ratio of assigned power levels of V-to-U stations to those of Viacom's own U-to-U stations continues to remain so excessively high as to magnify the existing disparity between analog UHF and VHF stations. For example, in Atlanta, the power level assigned to Viacom's WUPA(TV), NTSC Channel 69, in the Commission's proposed Table was 151.6 kW and the power level assigned to that station in the *Sixth Report and Order* Table was 50 kW. At the same time, a V-to-U station in that market, WSB, Channel 2 (assigned to Channel 39), had its power increased from 396.2 kW to 1000 kW, a power level under the Table which is 20 times greater than that assigned to WUPA(TV).[3] Additionally, although another V-to-U station in the market, WAGA(TV), Channel 5 (assigned to DTV Channel 27), had its power decreased from 3878 kW to 1000 kW, that station still benefits under the Table from a power level 20 times higher than that of WUPA(TV).

A similar scenario exists in Detroit, where Viacom's WKBD(TV), NTSC Channel 50, experienced a reduction in its power from 130.8 kW under the proposed Table to 50 kW under the *Sixth Report and Order* Table. Even while WKBD(TV)'s power in the Table was reduced by more than half and three V-to-U stations also had their power reduced, but to the cap of 1000 kW, those V-to-U stations still continue to enjoy a high ratio of power vis-à-vis WKBD(TV). Specifically, the power of WJBK(TV), Channel 2 (assigned to DTV Channel 58), decreased from 4363.6 kW to 1000 kW, WDIV(TV), Channel 4 (assigned to DTV Channel 45), decreased from 4468.5 kW to 1000 kW, and WXYZ(TV), Channel 7 (assigned to DTV Channel 41), decreased

[3] In its analysis, Viacom recognizes the effect in the change in noise figure in the Table in the *Sixth Report and Order*, as well as the introduction of the dipole factor.

from 2221.1 kW to 1000 kW. Yet, these three V-to-U stations are assigned power levels 20 times greater than that of WKBD(TV). In short, despite the Commission's reformulation of the Table of Allotments based upon a 1000 kW cap and a 50 kW floor, as set forth in the *Sixth Report and Order,* U-to-U stations continue to be unfairly and anticompetitively disadvantaged vis-à-vis V-to-U stations.

Moreover, the negative effects of the disparity on the relative ease of reception of V-to-U digital signals in comparison to U-to-U signals is greatly exacerbated by the planning factors underlying the power level assignments in the Table of Allotments: an unproven UHF 7 dB noise figure for receivers[4] and an outdoor antenna at a height of 9 meters and an assumed gain of 10 dB with a front-to-back ratio of 14 dB. Not only is evidence lacking as to the appropriateness of these assumptions, but a 9-meter mounted outdoor antenna will most likely not be used by the vast majority of viewers, particularly those in urban areas, who will in fact use a simple, low-gain indoor, direct-connected antenna for reception of their digital television signals. These inadequate power level assignments for U-to-U stations and improper assumptions *could, in the most extreme scenario, bring an end to free, over-the-air UHF television service and relegate its delivery to the American public by means of only subscription to cable or other pay television services.*

Viacom respectfully maintains that the Commission has at its disposal two means of correcting the U-to-U disadvantage and thereby insuring a fair, workable and economically viable transition to the digital world: The Commission either can completely amend the Table of Allotments *or*, more reasonably, adopt measures that are either external to the Table or involve minor adjustment to the Table. While both options entail reliance to one degree or another on the four criteria proposed in the Viacom/PBS Letter, as outlined above, the difference is in the

[4] In the *Sixth Further Notice*, the proposed Table was constructed using a 10 dB figure. Yet, the *Sixth Report and Order* includes no justification for the change.

application of those criteria. Because wholesale revision of the Table might impede the scheduled rollout of digital television, Viacom advocates Commission adoption of steps that will ameliorate the Table's inherent inequities without delay.

Viacom hereby requests, therefore, that the Commission adopt the following: (1) modified interference standards, on a case-by-case basis, with predefined boundaries in evaluating the maximization proposal of U-to-U stations; (2) use of Channels 60 through 69 to foster full maximization; (3) "cut-off" procedures for all broadcasters seeking to maximize digital facilities which permit stations to participate even if they do not yet hold a construction permit; (4) a re-evaluation of power levels based on the presumed use of direct-connected, indoor antennas; and (5) an empirical evaluation of performance standards of receiving equipment and antennas to determine whether the assumptions actually utilized in constructing the Table are accurate, and if they are not, adoption of mandated performance standards and/or adjustments to the Table to account for sub-standard performance. Further, Viacom requests that the Commission clarify that each two-year review period, referenced in paragraphs 115-116 of the *Fifth Report and Order,* be followed by any and all appropriate Commission action.

II. MAXIMIZATION

In the *Sixth Report and Order* at ¶31, the Commission enunciated the principle of maximization: "Stations should be able to maximize their facilities provided that no new interference is caused to other stations." Specifically, the Commission stated that stations will be permitted to request increases in their operating power and/or height of antenna from that provided in the DTV Table, up to the maximum permissible limits on DTV power and antenna height *or* up to that needed to provide the same geographic coverage as the largest station within their market. *See id.* Moreover, the Commission noted that it will entertain requests for increases in power by DTV stations above the 1000 kW ceiling where such additional power would be required to provide service to the station's Grade B contour and would not result in additional interference.

Viacom zealously supports the principle of maximization and views it as the primary course for redressing the tremendous power differentials between V-to-U and U-to-U stations. To that end, therefore, Viacom urges that the Commission facilitate maximization, but that it do so by, first, redefining the scope of permitted maximization, and, second, by establishing a "cut-off" procedure for entertaining requests for maximization —at least for the duration of the transition period. First, with respect to the scope of maximization, Viacom advocates, on a case-by-case basis, the application of modified interference criteria for U-to-U maximization requests. The interference criterion adopted in the *Sixth Report and Order*, the so-called "50/10" curve, enlarges the geographic area of an NTSC station that must be protected, thereby restricting the amount of maximization that can occur. As detailed below, Viacom urges Commission flexibility with respect to interference criteria such that it apply in certain cases "50/50" curves, which will permit U-to-U stations to more fully maximize and, therefore, to better compete with high power V-to-U stations. Moreover, the Commission should expand the scope of maximization, particularly for disadvantaged U-to-U stations, by making Channels 60 through 69 available for UHF expansion if such expansion cannot be otherwise accommodated.

Second, with respect to maximization procedures, it is imperative that the Commission endow all U-to-U television stations with the opportunity to increase their powers and/or expand their geographic service areas. If the Commission restricts maximization only to stations holding construction permits, those stations permitted to roll out digital television at later dates will be utterly disenfranchised from the process and will be forever foreclosed from expanding into the limited amount of spectrum available for maximization. As detailed below, Viacom urges the Commission to adopt a "cut-off" procedure whereby all stations assigned a DTV channel are eligible to participate. This maximization scheme —which comprises modified interference criteria for U-to-U stations in certain cases, utilization of Channels 60 through 69, and an application procedure that is open and fair to all— will, at least to an extent, help assure maintenance of the relative competitive posture of analog VHF and UHF stations in the digital context.

A. Scope of Maximization: Modified Interference Levels and Use of Channels 60-69

The *Sixth Report and Order* at ¶222 stated that the Commission will require that a party requesting modification of the DTV table show that such modification would not result in "any new predicted interference" to other DTV allotments or existing NTSC stations. As outlined in Appendix B of the *Sixth Report and Order*, interfering signal levels are set equal to the values predicted for 50% of locations and 10% of the time. *Id.* at B-3. Using this so-called 50/10 curve as the standard for determining interference, the Commission noted, yields "a worst-case comparison." *Id.*

While employing a restrictive interference standard, such as the 50/10 curve, will assure a greater degree of protection to a station's signal, a number of licensees of multiple U-to-U stations have agreed that under the proper conditions they are willing to forego such heightened protection of their non-core analog service areas in order to promote maximization. The Association of Local Television Stations ("ALTV") this day is separately filing a petition for reconsideration of the *Sixth Report and Order*, requesting that the Commission evaluate DTV power increase requests utilizing not only the Commission-recommended interference standard of 50/10 curves, but the more relaxed interference standard of 50/50 curves.

Specifically, ALTV recommends that in evaluating a modification application, the 50/10 curve be used as the standard for determining DTV-to-NTSC interference at an affected analog station's Grade A contour while the more relaxed 50/50 curve be employed for analyzing interference in a portion of the affected analog station's Grade B contour. In no case, however, should the Commission permit a facility to be modified if it causes additional interference to any portion of a station's analog Grade A contour. Further, under the ALTV proposal, in applying the 50/50 curves to evaluate interference to a station's analog Grade B contour, industry coordinating committees, as the penultimate decision-makers, and the Commission, as final arbiter of disputes and as reviewer of negotiated interference agreements brokered by the coordinating committees, must also consider five factors: (1) the cumulative effect of additional interference on the analog UHF facility that could result from several stations maximizing their

coverage areas; (2) whether the area of increased interference is located within the interfered-with station's DMA; (3) whether the geographic area where additional interference occurs represents more than 5% of the area covered by the Grade B contour of the station accepting additional interference; (4) whether the population accepting additional interference represents more than 5% of the total population covered by the Grade B contour of the station accepting additional interference; and (5) whether the digital station's power increase is critical to the growth of digital station in that station's market.

As a member of ALTV, Viacom supports use of the relaxed interference standard as propounded by ALTV and views it as a tool for evaluating modification applications, as discussed in the procedure detailed above. In supporting a relaxed interference standard, however, Viacom emphasizes that its application should be limited to only U-to-U stations. In other words, U-to-U stations willing to sacrifice portions of their analog Grade B service areas in order to ease the U-to-U/V-to-U power disparity, should not be made to lose any of their Grade B or Grade A service areas at the expense of V-to-U stations which have already been assigned high levels of operating power. This limitation will aid the Commission's long-held policy of encouraging the greatest diversity of voices in that there will be greater assurance that viewers now receiving the Grade A NTSC signals of UHF stations may continue to receive those stations' programming in the digital world. With the limitation that the modified interference criteria apply only to U-to-U stations, and in an effort to assist the Commission in accommodating maximization of U-to-U full-power stations without overhauling the Table, Viacom is willing to abide by the ALTV interference proposal.

Finally, the spectrum that the Commission has reserved for maximization may simply not be adequate to remedy the U-to-U/V-to-U power disparity. Accordingly, Viacom requests that the Commission utilize Channels 60 through 69 to permit U-to-U maximization, at least during the transition period. Indeed, in the *Sixth Report and Order* at ¶142, the Commission

contemplates continued use of that spectrum for existing LPTV and TV translator stations and for displacement relief of those services. Similar accommodation should be made for U-to-U broadcasters, who have been disadvantaged by inadequate power level assignments.

B. Procedure for Maximization: Include all Television Broadcasters and Use "Cut-Offs"

As for the procedural framework for entertaining applications seeking to maximize DTV facilities, both the *Fifth Report and Order* and the *Sixth Report and Order* were silent. In the absence of an established procedure for the filing of such applications, Viacom fears that maximizing DTV facilities will become a contest in which the first applicant to the Commission door "wins" larger protected Grade A and Grade B contours and, correspondingly, the ability to better serve a larger segment of the viewing public. And, if under Commission procedure, the first applicants to the door must be holders of construction permits, UPN affiliates in all markets, which are not required to apply for a construction permit for nearly another 36 months (by November 1999) will be foreclosed from ever maximizing. Indeed, if holding a construction permit were a prerequisite to applying for maximization, those ABC, CBS, NBC and FOX affiliates in the top 10 markets, which are either required to launch DTV by May 1, 1999 or which have committed to do so by November 1998, and those top-four network affiliates in markets 11 through 30, which are required to launch DTV by November 1, 1999, will be at a distinct advantage over all other television broadcast stations. That is so because those affiliated stations must complete transmission site and antenna studies and file for construction permits — which requires providing information relating to all technical parameters for their DTV facilities— by May 1, 1998 (for the top 10 markets) and by August 1, 1998 (for markets 11 through 30). All other commercial stations need not file for a construction permit until November 1, 1999.

Thus, it is all-important that *all* stations assigned to DTV channels in the Table be eligible to participate in the maximization process —with or without a construction permit. To apply for maximization, those stations without construction permits should be allowed to utilize

the station parameters relied upon by the Commission in constructing the Table or other valid information. Moreover, in no event should a station's participation in a cut-off procedure accelerate its DTV build-out schedule as provided for in the *Fifth Report and Order*.

In addition, to avoid a "gold-rush" mentality with respect to maximization and to implement a more equitable system for the expansion of DTV facilities, Viacom urges the Commission to adopt "cut-off" procedures for all applications seeking to maximize. "Maximization," in turn, should be defined as any extension of the Grade A and/or Grade B contour of a DTV facility from that authorized, either by construction permit or by the Table. Viacom requests, in essence, that on reconsideration the Commission deem such applications — whether based upon a change in transmitter site, height of antenna (HAAT), effective radiated power (ERP) or the directionalization of the antenna— to be "major changes," subject to the cut-off procedures of Section 73.3572 of the Rules. Under those procedures, a modification application triggers a set of public notices that serves to alert broadcasters to the deadline for filing mutually exclusive applications. Specifically, Commission Rules provide that major change applications must be listed on an "A" cut-off list, that is, a Public Notice announcing the acceptance for filing of those applications and the date on which the listed applications will be considered available and ready for processing and by which all mutually exclusive applications, as well as petitions to deny the listed applications, must be filed. *See, e.g.*, 47 C.F.R. §73.3572(d). Thirty days from that deadline follows the "B" cut-off date, at which time all petitions to deny the mutually exclusive applications must be filed. *See id.*

In the event the Commission is confronted with mutually exclusive applications, it should require that the parties negotiate a compromise among themselves within a specified period of time. Applicants whose objective in filing is to seek "greenmail" or to otherwise abuse the Commission's processes must be severely sanctioned. However, *bona fide* applicants should not be discouraged from including in their settlement agreements the voluntary funding of upgraded technical equipment for non-commercial stations in exchange for ceding a portion of the requested area of maximization. When mutually exclusive applicants are not able to reach

agreement, the Commission should refer the matter to a geographically relevant, neutral industry coordinating committee (as proposed in the petition for reconsideration being filed this day by the Association for Maximum Service Television, Inc.) which will be charged with arbitrating the disputed areas such that each applicant will be permitted a proportionate level of modification. Under no circumstances should V-to-U stations involved in such mutually exclusive situations be awarded a greater proportion of modification. All applicants, even V-to-U stations whose participation in the maximization process should be limited to those instances where their DTV signals will not replicate their entire NTSC Grade B coverage areas, should be treated as equals in the arbitration process. The final arbiter, of course, must be the Commission, which must determine whether the coordinating committee decision was reached in compliance with the Commission's technical requirements and that the resulting modifications are in the public interest.

III. RECEIVER AND ANTENNA PRESUMPTIONS

The DTV Table of Allotments, presented as Appendix B of the *Sixth Report and Order,* results in power allotments which are inadequate for effective transmission of DTV signals by U-to-U stations. The problematic assumptions, identified in Appendix A, are (1) the presumptions relating to antenna gain and front to back ratio (directivity); (2) the implicit adoption of the current part 73 assumption of a receiving antenna height of 9 meters; and (3) the performance characteristics of consumer receiving equipment. *See* 47 C.F.R. §§73.684, 73.699.

The Table's channel and power assignments and the operating parameters of receivers and antennas impact a station's ability to conduct business and compete effectively in its service area. This is particularly true for stations that, by and large, are assigned relatively low power levels both on an absolute basis and on a comparative basis relative to their V-to-U counterparts. In order to insure that digital television is a workable service, the Commission should conduct a study to determine the state of antennas and receivers and, if that study finds that the Table's

planning factors are lacking, should either modify the power levels in the Table to reflect real-world data or mandate equipment specifications that correlate with the Table's assumptions.

A. Antenna Standards

Viacom is concerned about the assumption of an outdoor receiving antenna with gain and directivity, as well as the implicit adoption of the 9-meter average antenna height specification, codified at 47 C.F.R. §§73.684 and 73.699. These assumptions reflect a view that consumers, even in urban areas, will generally be ready, willing and able to install high quality, well-placed outdoor antennas capable of and sufficient to receive viewable DTV signals. The fact is, however, that in excess of 60% of total U.S. TV households currently receive their signals by cable and a large universe of cable subscribers do not use (or even have installed) off-air outdoor antennas. Moreover, a large number of potential DTV viewers may not, in fact, be able to erect outdoor antennas due to location, natural- or man-made obstructions, or the fact that they live in multiple dwelling units. Other consumers who are not precluded from erecting an outdoor antenna may nevertheless be reluctant to erect an outdoor structure or may find it physically impossible to do so. Consequently, this entire category of viewers will be forced to revert to using less sensitive and less directional, direct-connected indoor antennas for their DTV reception as, indeed, many of these same viewers do today for NTSC UHF reception. And, given that mandatory carriage of DTV signals is not yet certain, the only means for receiving digital signals may be over the air, with an antenna, and not via cable.

Typically, indoor antennas, such as loops, have significantly lower gain and directivity than does the model antenna adopted by the Commission. The decreased sensitivity of these lower gain antennas, coupled with the greatly reduced directivity, will have a significant negative impact on the U-to-U stations' ability to reliably serve viewers in their service areas. Higher powered DTV stations (typically V-to-U stations), while likewise affected by these phenomena, can be expected to continue to effectively serve their viewers despite the unreliability of indoor antenna reception due to their higher power. High power enables a DTV signal to "punch through" and overcome many of these reception deficiencies.

B. Antenna Margin Loss

The Commission did not address yet one other important issue that will directly affect the capability of consumer equipment to efficiently receive U-to-U DTV signals relative to their capacity to receive V-to-U signals. This issue concerns the nature of the DTV signal compared to that of the analog NTSC signal and the fact that the former does not degrade "gracefully" in the same manner as an analog signal. Instead, the digital signal exhibits a "cliff effect" such that above a certain signal level, the picture is at maximum quality. Below that signal level, the picture and audio will experience significant degradation or disappear completely. Consequently, DTV picture quality is at a maximum as long as the carrier-to-noise figure is above a set threshold; beyond that threshold the picture does not improve. This characteristic can and will lead to indoor (and even outdoor) DTV antennas not being aimed correctly, because picture quality can be at a maximum even with an off-axis antenna. The unsuspecting viewer/installer may stop aligning the antenna when a maximum quality picture is achieved. However, the result of a mis-pointed antenna is a lower receive signal margin and, in the case of lower power U-to-U stations, reduced tolerance to path induced signal attenuation and interference. The inevitable consequence is impaired reception for U-to-U stations, which have been assigned low power levels.

C. Receiver Standards

Viacom is concerned with adoption of a receiver noise figure of 7 dB for UHF stations. In an attempt to confirm whether or not this assumption is accurate, Viacom has spoken with representatives of various consumer electronics firms. The information Viacom has received is, at best, conflicting. There is no consensus as to the practical viability of manufacturing a receiver for widespread distribution which meets this 7 dB performance characteristic. While it appears that some manufacturers believe they *may* be able to manufacture and sell such receivers, others do not.

In light of the foregoing, it is appropriate and necessary for the Commission to embark upon a study so that it may draw a reasoned conclusion about the performance characteristics of

consumer reception equipment and indoor antennas. If that study indicates that receivers do not now or cannot reasonably be expected to exhibit a noise figure of 7 dB or better or that indoor DTV receiving antennas do not now or cannot reasonably be expected to be made to perform as the referenced outdoor antenna, then the Commission has two options. First, it can recalculate the Table's power allotment to account and adjust for the empirical evidence it develops or, second, it can commence a proceeding to mandate minimum consumer electronic operating specifications of compatibility with the Table's assertions. Furthermore, the Commission should in all cases require that all receivers be equipped with a simple-to-use signal meter to be employed during antenna pointing so that the antenna can be aligned, thereby insuring maximum performance for power-disadvantaged UHF stations.

IV. TWO-YEAR REVIEW PERIODS

In the *Fifth Report and Order* at ¶116, the Commission stated that it will conduct a periodic review every two years until the cessation of analog service in order to "ensure that the introduction of digital television and the recovery of spectrum at the end of the transition fully serves the public interest." Such reviews, the Commission noted, will encompass "any new issues raised by technological developments, necessary alterations in [Commission] rules, or other changes necessitated by unforeseen circumstances" and will permit the Commission to "make whatever adjustments will be required." *Id.*

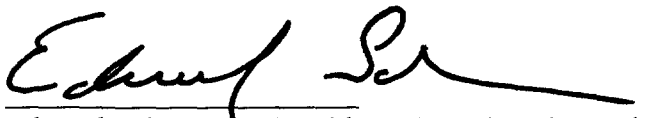
Viacom commends the Commission for its commitment to superintending the uncharted transition to digital broadcast television. However, because of the myriad variables yet unknown, as well as those that are known, including those highlighted in this petition, Viacom requests clarification from the Commission that it will, as part of its public interest obligation, commit the agency to take whatever actions are necessary to insure maintenance in the digital era of the competitive posture of UHF and VHF stations in the NTSC era, even if such action involves amending the Table.

V. CONCLUSION

For the foregoing reasons, Viacom requests that the Commission revise and clarify determinations rendered in the *Fifth Report and Order* and in the *Sixth Report and Order.*

Respectfully submitted,

VIACOM INC.



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